

DEC 14 2018

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

UNITED STATES OF AMERICA,

) CASE NO. 7:08CR00023  
) (CASE NO. 7:18CV 81344)

v.

) MEMORANDUM OPINION

COREY MCKINZIE HOWARD,  
Defendant.

) By: Glen E. Conrad  
) Senior United States District Judge

Corey McKinzie Howard, a federal inmate proceeding pro se, filed a pleading titled “Petitioner’s motion to compel the Government to produce discovery and production of documents,” ECF No. 115. By order entered November 27, 2018, the court construed this pleading as a motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255. Upon consideration of the § 2255 motion and the record, the court concludes that the action must be summarily dismissed as successive.<sup>1</sup>

Howard was convicted pursuant to a written plea agreement and sentenced on July 6, 2009, to 196 months in prison.<sup>2</sup> He did not appeal his conviction or sentence. In 2012, Howard filed a § 2255 motion that was dismissed as untimely filed. United States v. Howard, No. 7:08CR00023, 2012 WL 5986963, at \*1 (W.D. Va. Nov. 29, 2012). Howard did not appeal. Howard signed and dated the § 2255 motion now before the court on November 22, 2018.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the

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<sup>1</sup> Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings, the court may summarily dismiss a § 2255 motion where “it plainly appears from the face of the motion and any annexed exhibits and the prior proceedings in the case” that petitioner is not entitled to relief.

<sup>2</sup> By order entered April 8, 2015, the court reduced Howard’s sentence to 180 months, but not less than time served, pursuant to 18 U.S.C. § 3582(c).

motion meet certain criteria. See § 2255(h). As stated, Howard pursued a previous § 2255 motion. Howard offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion. Based on this record, the court must summarily dismiss this § 2255 motion without prejudice as successive. A separate order will be entered this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to the defendant.

ENTER: This 14<sup>th</sup> day of December, 2018.

  
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Senior United States District Judge